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AMERICAN

NO. 100

IN THE DISTRICT COURT OF THE UNITED STATES

October Term, 1931

WAS: W. GARDNER APPEALANT

VERSUS: WALTER W. AL. APPELEE

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

WORTH TO APPEAR

U.S. Marshal, Southern District of New York

In the Supreme Court of the United States.

OCTOBER TERM, 1920.

MAX W. STOEHR, APPELLANT,	} No. 546.
v.	
JAMES M. WALLACE ET AL., APPELLEES.	

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

MOTION TO ADVANCE.

Comes now the Solicitor General, on behalf of the Alien Property Custodian, one of the appellees herein, and moves the court to advance this case and set it for hearing on some date during the month of December, 1920.

The case is a suit in equity against the Alien Property Custodian and others to enjoin the sale of 14,900 shares of the capital stock of the Botany Worsted Mills, seized by the Alien Property Custodian as property of an alien enemy under the provisions of the trading with the enemy act of Congress, as amended. (40 Stat., c. 106, p. 411.) The relief prayed for is predicated, among other things, upon a contention that the act of Congress authorizing the seizure and sale of property of alien

enemies is unconstitutional, for various and sundry reasons, and also in contravention of certain treaties between the United States and other Governments. The same questions are applicable to all of the cases in which the Alien Property Custodian has exercised the powers conferred upon him by the act of Congress. Any further delay in a final determination of this question will, therefore, greatly embarrass the Alien Property Custodian in the final settlement of all the matters which have come under his jurisdiction. In addition, a very large number of cases are now pending in the lower courts, the determination of which depends upon the same question. It is of vital importance to the orderly administration of enemy property that a decision be obtained at the earliest possible moment.

The district judge sustained fully the contentions of the Government and dismissed the bill, rendering an exhaustive opinion, from which it appears that he had no difficulty in reaching this conclusion. Upon the urgent application, however, of counsel for appellant, he made an order on July 1, 1920, permitting the appeal to operate as a supersedeas upon certain conditions, among which was the condition set out in the decree as follows:

That the counsel for the complainant and appellant join with the counsel for the defendants in a motion for a preference or advancement of this cause in the Supreme Court of the United States, so that said ap-

peal may be argued therein in the October, 1920, term of the Supreme Court, or as soon as the said cause can be heard or that the counsel for the complainant and appellant consent to such preference or advancement.

Counsel for the appellees, other than the Alien Property Custodian, concur in this motion.

Respectfully submitted.

WILLIAM L. FRIERSON,
Solicitor General.

NOVEMBER, 1920.

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